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SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 March 1997, at 10 a.m.

Chairman: Mr. SOMOL (Czech Republic)

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The meeting was called to order at 10.20 a.m.

STATEMENT BY MS. CHRISTINE RUHAZA, MINISTER FOR HUMAN RIGHTS, SOCIAL ACTION AND PROMOTION OF WOMEN OF BURUNDI

1. Ms. RUHAZA (Burundi) welcomed the opportunity afforded by the current session of the Commission on Human Rights to provide information on the real situation in her country.

2. Contrary to what had been claimed, the institutional change in 1996 had not been a denial of democracy - which had, in fact, been completely destroyed by three years of conflict - but a way of ending chaos and restoring the rule of law. It should not be forgotten that the international community, whatever its concern for Burundi, had made few practical proposals for resolving the crisis and preventing the foreseeable genocide. Pursuant to its plan of action for the restoration of peace and democracy, the new Government was encouraging dialogue and giving prominence to the promotion and defence of human rights. For example, Decree-Law No. 1/001/96 of 13 September 1996 establishing the transitional institutional system provided that the transitional institutions must ensure the observance of the rights and duties set forth in the Universal Declaration of Human Rights, the International Covenants on Human Rights, the African Charter of Human and Peoples' Rights and the Charter of National Unity.

3. The judicial system was functioning again and investigations with a view to the identification and punishment of the persons responsible for the murders committed during the putsch of 21 October 1993 as well as for the genocide and other massacres were proceeding apace. Some culprits had already been brought before the courts, where observance of defendants' rights was guaranteed by the involvement both of Burundian lawyers and, under an agreement between the Government and the United Nations Centre for Human Rights, of international lawyers.

4. Thanks to the action undertaken by the Government of Burundi with the assistance of the increasingly well-disciplined armed forces and police, general security had greatly improved, as the United Nations human rights observer mission sent to the country by decision of the Commission on Human Rights and with the national authorities' full agreement would see. As their statements following their recent visits to Burundi showed, the United Nations High Commissioner for Refugees, the High Commissioner for Human Rights and the Special Representative of the Secretaries-General of the United Nations and the Organization of African Unity had found that peace was gradually being restored in the country. The finding of the delegation of the European Union that had recently gone to Burundi would undoubtedly be the same.

5. The good results were, regrettably, the subject of a campaign of disinformation orchestrated by the adversaries of the policy of unity and national reconciliation. They sought to give the impression that, because of massacres by the Burundi Army of forcibly assembled groups of Hutus, there was a climate of insecurity in the country. Like certain international opinion-makers, those denigrators, extremists within and outside the country, went so far as to compare such regrouping, the purpose of which was to protect persons at risk, to the establishment of concentration camps. In fact, they

feared the restoration of peace and the crushing of the terrorists, events that would frustrate their designs on the country and make negotiations with the rebels superfluous.

6. In that regard, Burundi deplored the approach taken by Mr. Paulo Sergio Pinheiro, Special Rapporteur on the situation of human rights in Burundi, in his report E/CN.4/1997/12. The Special Rapporteur deliberately accused the Burundi authorities of maintaining a war mentality in the hope of crushing the rebels and refused to see that their goal was in fact peace and reconciliation. Moreover, he had not visited Burundi since July 1996, whereas other senior United Nations officials who had gone there more recently had reported that security had improved. The Government of Burundi was willing to receive the Special Rapporteur, but recommended that he and other international observers should verify the information with which they were flooded in the hope of deluding them and should remain neutral and objective.

7. It was the President of the Republic's firm resolve to engage in dialogue with all Burundians, including the armed factions, without interference by either nearby or distant partners. Results were already apparent and a national discussion in which the entire population would participate was beginning. Rather than counting the dead, the international community should support the peace process in Burundi. That process was being hampered by the economic sanctions imposed by neighbouring States, the effect of which was all the worse as Burundi was landlocked. Ordinary people were the first to suffer from the unjustified blockade: after the hardships of more than three years of war, their health was deteriorating, malnutrition was becoming widespread and life expectancy was declining. Further ill-effects of the economic strangulation were that the rights to education, gainful employment and housing could no longer be assured. Far from contributing towards its ostensible goal, the restoration of peace and reconciliation, the blockade was in fact the principal obstacle to its achievement.

8. Burundi did not, however, have only enemies: at its latest session, the OAU Council of Ministers had recommended that, in view of the practical progress made in Burundi, the sanctions on the country should be reviewed; the most recent Francophone Summit, held at Ouagadougou, the Bureau of the Standing Advisory Committee on Security Questions in Central Africa, the Holy See, a number of States and international and humanitarian organizations had also recommended the lifting of the blockade. Burundi was entitled to expect from the international community, particularly the Commission, active solidarity in ensuring that international law was observed and that the illegally imposed economic sanctions, with their disastrous consequences for the rights of the individual, were repealed immediately.

TRIBUTE TO THE MEMORY OF MICHAEL MANLEY, PRIME MINISTER OF JAMAICA

9. At the invitation of the Chairman and the request of the representative of Zimbabwe, the participants observed a minute of silence.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT;

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(agenda item 5) (continued) (E/CN.4/1997/17-20, 106, 110, 112, 115 and 120; E/CN.4/1997/NGO/9, 31, 36 and 55; E/CN.4/Sub.2/1996/12 and Corr.1, 13 and 11; A/C.3/51/6)

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 6) (continued) (E/CN.4/1997/21 and 22; E/CN.4/1997/NGO/2 and 32)

10. Mr. OUAYES (Bangladesh) observed that the Vienna Declaration and Programme of Action stated clearly that "democracy, development and respect for human rights and fundamental freedoms are ... mutually reinforcing". Realization of the right to development and the establishment of a proper balance between all human rights were therefore essential.

11. The mandate of the Intergovernmental Group of Experts on the Right to Development, which was unambiguously set out in Commission on Human Rights resolution 1996/15, should be seen in the context of the Declaration on the Right to Development and the Vienna Declaration and Programme of Action. It would be particularly useful if the Group considered how the application of the Declaration on the Right to Development should be approached: economic, social and cultural rights had been recognized as fundamental human rights, but the question what effect that recognition had on the approach to human rights issues had never been studied. Human rights continued to be seen in the usual perspective, that of civil and political rights. The time had come to ask whether such an approach was still valid. In the case of civil and political rights, the action required was one of protection: States had to ensure that the rights were not breached and, if they were, to repair the injury. In the case of economic, social and cultural rights, however, the action required was one of promotion, inasmuch as States had, essentially, to ensure the realization of the rights. That realization did not, however, depend on the State alone. The problem was a multidimensional one extending beyond national borders and involving transnational economic, financial and commercial forces and elements of international policy. To establish domestic remedies for breaches of those rights, as was done for civil and political rights, was not necessarily the best solution. A balance must be struck between freedom, democracy, development and market forces. It was that idea that should underlie strategies for ensuring the realization of the right to development.

12. Since the human person was the central subject of development, Bangladesh gave priority to human welfare and the sustained efforts to improve the country's social and economic situation had yielded encouraging results. However, a shortage of resources hindered the execution of programmes essential to the achievement of the desired level of development and so blocked the promotion and enjoyment of the full range of human rights. For that reason, the international community should, as recommended in paragraphs 9 and 14 of the Vienna Declaration and Programme of Action, increase their support to poor and least developed countries with a view to eliminating the widespread poverty there. New spheres of cooperation should be envisaged and a genuine partnership for development should be established. What was needed was, as the World Summit for Social Development had recommended, a global social contract.

13. Mr. KRAVETZ (El Salvador) said with regard to agenda item 6 that the establishment of the Intergovernmental Group of Experts on the Right to Development was an important stage in the realization of that right and that the Group should be given the support and time needed to fulfil its mandate. It was, however, clear that full exercise of the right to development required effective cooperation and dialogue by all involved, whether nationally or internationally. Consequently, coordination between all the United Nations agencies and the international financial institutions must be strengthened so that their action genuinely contributed to development.

14. In El Salvador, the Government, desirous of pursuing the major economic reforms undertaken in 1989, had instituted in 1994 an extensive economic and social development programme aimed at accelerating economic growth for the benefit of the entire population. A number of social projects had been launched to cater for immediate needs and, in the longer term, to secure integral development of the human person. Economically speaking, the goal was steadily to augment productivity and so make the country more competitive by increasing infrastructure investment, promoting freedom of competition, reducing production costs and developing scientific and technological infrastructure and institutions. The Government intended to increase social-spending allocations from 31 per cent to 50 per cent of the national budget by 1999. Furthermore, recognizing that, since a country required a well-educated and skilled workforce to be globally competitive, education was of vital importance in improving income distribution, social justice and economic growth, his Government was engaged in a thorough reform of the education system. The objectives were to increase primary-school enrolment, cut drop-out rates and raise teaching standards at the intermediate and secondary levels. Extramural training for persons in employment was provided under the National Competitiveness Programme. A programme to modernize the State apparatus so as to create a competitive market in the country, guarantee the efficient supply of essential goods and public services and reorient public spending towards support for economic growth and the meeting of the most urgent needs of the poor was also in progress. Thanks to those programmes, El Salvador hoped to become by 2021, 200 years after its independence, a country that was, as nearly as possible, as economically, socially, politically, technologically and culturally advanced as the developed countries. Development of the individual was the foundation of national development and the latter was the only option for the safeguarding of civil and political and economic, social and cultural rights.

15. With regard to agenda item 5, his country had, in conformity with its obligations as a party to the International Covenant on Economic, Social and Cultural Rights, submitted its report to, and taken note of the recommendations of the Committee on Economic, Social and Cultural Rights. The Committee's recommendations should always be as concrete as possible; in other words, they should take fully into account the resources available to the developing country in question for policy and programme execution. They should also bear in mind the country's actions under programmes agreed with other international institutions and any progress made by the country and recognized by such institutions.

16. Mr. JOKONYA (Zimbabwe) said that the fundamental problem of the current day was that of the division of the world into two by a "curtain of poverty" separating North from South. There were more extremely poor, underfed and illiterate people in the developing countries of the South than anywhere else. In recent years all members of the international community had come to agree that the right to development was universal and inalienable, but views differed concerning the importance to be given to that right and the way of realizing it. There was, nonetheless, growing recognition that the inequalities attributable to an absence of development created strains and problems that were incompatible with the concept of human rights, and that civil and political rights and the right to development went hand in hand and were, in fact, two faces of the same coin.

17. As the Intergovernmental Group of Experts on the Right to Development had said in its report (E/CN.4/1997/22), poverty was the principal obstacle to the realization of the right to development. For the developing countries, however, poverty was not an aberration that could be remedied simply by adjusting international economic relations: as the Group of Experts had noted, rich nations manipulated those relations to their own advantage and countries, groups and individuals that were unable to compete risked marginalization. New and powerful, economic, financial and commercial forces, particularly at the international level, were imposing their will and interests to the detriment of the development of society as a whole. Efforts must therefore be redoubled, both nationally and internationally, to provide access for all countries, particularly the least developed countries, to the means of development; that entailed above all the strengthening of international economic cooperation. Such cooperation would redress the balance between concern for economic efficiency and the need for social justice and equity. The real result of development must be the creation of a truly just society where the fundamental human values were respected and people could develop their full potential. The developed countries should therefore keep to their undertaking to allocate at least 0.7 per cent of their GNP to aid to developing countries.

18. His delegation welcomed the dialogue now under way between the High Commissioner for Human Rights and the World Bank and hoped that among the subjects discussed would be the consequences for human rights, particularly the right to development, of the activities of international financial institutions. Structural adjustment programmes should aim not only at promoting economic growth in the countries where they were applied, but also at meeting basic needs in the spheres of health, education and employment. In other words, the programmes' content and the procedures for their application

should be designed with a view to their effects on overall development and not merely on economic growth. On the other hand, while it was normal that respect for civil and political rights should be taken duly into account in that regard, it should not be a sine qua non for the execution of the programmes.

19. It was, as the European Union countries had said, certain that the denial of human rights was an obstacle to development and that effective enjoyment of those rights was often hampered by war and extreme poverty. It should not be forgotten, however, that wars, especially civil wars in developing countries, had their origin in the poverty that stemmed from the socio-economic inequalities engendered by the repression and exploitation inflicted on those countries by Northern countries. It was, for example, vital that the European Union countries, which had included human rights clauses in their trade and cooperation agreements with third world countries, should understand that the human rights violations in those countries, particularly in Africa, were manifestations of the effects of colonialism on one hand and of the absence of economic power on the other. It was not fair to impose sanctions on countries for human rights violations attributable to inappropriate colonial policies. Was consideration being given, as in the case of victims of the Nazis, to redressing the wrongs which those policies had caused Africa and which to the current day were preventing the continent from realizing the right to development?

20. As the Intergovernmental Group of Experts on the Right to Development had observed, international instruments alone were not enough to ensure the implementation of the right to development. There must be North-South cooperation on the critical problems of international poverty, and the Commission could play a special role in that respect. Consensus was already apparent on that point and he hoped it could be maintained.

21. Mr. SINGYE (Bhutan) said it was deplorable that, on the eve of the twenty-first century, a fifth of the world's population was still in a state of poverty that threatened its survival and could also jeopardize the well-being of the remainder of society if nothing was done to promote growth and progress for all members of the global family. The realization of economic, social and cultural rights and of the right to development was crucial in that respect. His delegation welcomed the international community's increased interest in those rights, which had led to the establishment within the Centre for Human Rights of a branch expressly responsible for promoting the right to development; it hoped that branch would be given all the resources needed to perform its task.

22. The progress made in the effective implementation of economic, social and cultural rights was far from satisfactory for, as the report of the Intergovernmental Group of Experts on the Right to Development showed, only a minority of countries had benefited from the growth of the global economy during the past decade. It even seemed that the price for that growth had been a further deterioration in most countries' situation. Clearly, therefore, the goal of social progress and balanced and fair development for all could only be attained through a concerted international effort, the establishment of a global partnership. Indisputably, States had the primary

responsibility in that respect, but it was still important that developed countries which did not yet do so should allocate 0.7 per cent of their GDP to official development assistance.

23. The Group of Experts confirmed in its report the need for international cooperation in order to realize the right to development while ensuring an appropriate balance between concern for economic efficiency and the need for social justice and equity. Global action was needed to resolve the debt problem, and structural adjustment programmes should be re-examined in the light of their effects on development and on the realization of the right to development. Measures were also required to eliminate the imbalances in international economic structures and relations.

24. As a least developed country, Bhutan naturally attached the greatest importance to the realization of economic, social and cultural rights and of the right to development. Its development efforts were aimed at ensuring the well-being of all its people by establishing a proper balance between material development and spiritual progress; they were also based on the participation of the target population groups in the decision-making. He hoped that his country could continue to count on the international community's support in its efforts to achieve balanced and harmonious development.

25. Mr. SELLEBI (South Africa) said that the right to development transcended both civil and political rights and economic, social and cultural rights; it was an integral part of democracy and of the rule of law. After years of controversy and debate, it had been recognized by the World Conference on Human Rights as a universal and inalienable right and one of the fundamental human rights.

26. His delegation hoped that the Commission would again be able to reach consensus on that important issue and that the Intergovernmental Group of Experts on the Right to Development which had replaced the former working group would succeed in drawing up guidelines for the full application of the Declaration on the Right to Development and in defining a world strategy for that right's promotion. In the current economic and political context, where the gap between rich and poor countries was widening and conflicts were multiplying, the Commission could not stress too heavily that realization of the right to development was among the means of preventing the major problems of the end of the millennium, particularly that of violence.

27. South Africa's official position on the right to development was expressed in the national Reconstruction and Development Programme, which was based on the democratic principles of participation, transparency and accountability of decision-makers. The Government considered that the right to development was inseparable from the civil and political liberties and other fundamental human rights enshrined in the Constitution.

28. South Africa was more than just proud of its own achievements after the years of suffering under the apartheid regime. It also felt solidarity with the other States of the region and was participating with them in a number of initiatives for the balanced and integrated development of southern Africa, such as the creation of a free-trade zone, infrastructure development and the improvement of water and power supplies. It was concerned that the debt

burden remained one of the principal obstacles to Africa's development. It also noted that, while providing new opportunities, globalization of the economy and technological progress had increased the risk that countries - often the smallest or poorest countries - would be marginalized. Clearly, development was not only a matter for each individual country, but also the responsibility of the entire international community and international aid had a role to play in that respect.

29. His delegation had studied with interest the first report of the Group of Experts, not forgetting that the Group was only at the beginning of its mandate and had many questions relating to the economic, social, cultural and political aspects of development still to study. It was pleased that contact had been established with the treaty bodies, ILO and the Bretton Woods institutions, for only through such exchanges of views could the full scope of the right to development be understood. Indeed, the cooperation of the Bretton Woods institutions and WTO and the support of United Nations agencies were essential to the realization of that right, which concerned not only third world countries, but all poor people wherever they might be. The Commission should continue actively to pursue that vital issue in a spirit of consensus.

30. In 1960, 37 years previously to the day, the apartheid regime's police had massacred a large number of his compatriots who had been demonstrating against repression. He paid tribute to those victims of the freedom struggle.

31. Mr. ROSALES DIAZ (Nicaragua) said that the realization of economic, social and cultural rights and of the right to development were topics that merited particular thought in the current context, even if the dialectic on the link between economic growth and ability to attain sustainable development was not new and dated from the early days of industrial capitalism. When, in that age, the introduction of revolutionary methods of production had made possible the generation of fabulous wealth, industrialists, bankers, political leaders and economists had supposed the means had been found of vanquishing shortages and poverty for ever. But the benefits had rapidly been concentrated in the hands of a few, in a few rich countries, and economic theorists had regrettably tried to justify that tendency by explaining that, like other "industrial inputs", labour - meaning human beings - had no value other than that conferred upon it by its capacity to contribute to the production process.

32. Societies must now define their ambitions clearly. Was growth to be measured solely in terms of goods produced or also by its contribution to human welfare? To those who argued that growth was essential to improving levels of living and enabling the developing countries to "take off" it could justly be retorted that, in practice, the demands of growth had led to the pauperization of millions of people throughout the world who were excluded from the regular economy. That pauperization was often the source of violence and war, the price of failure to take account of the social and human aspect of sustainable development.

33. In such a situation, countries' own responsibilities were great. It was primarily for them to strengthen the links between economic growth and social development by ensuring fairer distribution of their GNP, facilitating access

by the neediest to the means of production, especially land, satisfying the basic needs of all in the spheres of education and health and by contributing towards the emancipation of women.

34. A particularly disturbing contemporary problem of relevance both to economic and to social development was unemployment. Governments could not remain passive in the face of that phenomenon, which was principally attributable to the rationalization policies of transnational corporations and affected both industrialized and developing countries. It was inadmissible that millions of people throughout the world should be considered "superfluous". Full and productive employment remained a valid goal, as the latest International Labour Conference had reasserted; attaining that goal required appropriate policies, including, in the developing countries, the promotion of labour-intensive activities. As Fernando Henrique Cardoso, the President of Brazil, had said in his contribution to the UNDP Human Development Report, globalization was an irreversible economic process, but it was essential for it to include a human dimension and meet the need for equity. That was a message to, in particular, the World Bank and the International Monetary Fund and to regional and subregional development banks and funds, which must attach more importance to the social aspects of their policy and consider how the inequalities created by the new world economic order could be corrected. Reduction of the negative social consequences of structural adjustment policies was essential for the realization of the universal and inalienable right to development; political authorities must pursue such reduction actively, for it would not come about through growth alone.

35. With the twenty-first century nigh, it must be clearly recognized that neither individual freedom of itself nor market forces of themselves would suffice to resolve humanity's major problems.

36. Mr. PLORUTTI (Argentina) emphasized that, as the Vienna World Conference had solemnly proclaimed in 1993, democracy, development and respect for human rights and fundamental freedoms were interdependent and mutually reinforcing. It followed that the concept of the right to development concerned both the State and the individual, the prime beneficiary of fundamental human rights, and that it could only be realized in a community where the full panoply of rights, civil and political and economic, social and cultural, was equally enjoyed by all.

37. In that context, the widening gap between rich and poor countries and the almost universal phenomena of growing poverty, social injustice and marginalization were particularly disturbing.

38. As the Intergovernmental Group of Experts on the Right to Development had said in its report, the Declaration on the Right to Development had been born of the international community's will to bring together the notions of human rights and development in a comprehensive and integrated approach. Clearly, however, international will alone was not enough to put that idea into practice; it must be backed up by the efforts of countries themselves. The economic reform under way in his own country was aimed not only at generating wealth and ensuring sustainable development, but also at promoting equity and solidarity with the neediest members of society. The President of

Argentina had said in substance that there could be no development in a context of inequality and he had made that one of the cornerstones of his policy.

39. His delegation hoped that the Commission on Human Rights would, as in previous years, adopt the draft resolution on the right to development by consensus and reaffirm that that right was universal and inalienable.

40. The progress report of the Intergovernmental Group of Experts on the Right to Development represented a praiseworthy effort to set out, within a very short time limit, a balanced approach to the question: the measures proposed to eliminate the obstacles to, and promote development seemed feasible and reasonable and attention was rightly drawn to States' responsibility to act. Since, however, the Group had not yet examined or formally endorsed proposals made by individual members, he would refrain from commenting further until the Group's members had made their observations. He did, however, wish to express his regret at the absence from the proposals of any mention of the need to consider drafting a universal and binding convention to ban the production, use and transfer of anti-personnel mines. In addition, the Group should have expressed its support for the efforts of the International Labour Organization to strengthen the machinery for monitoring the fundamental human rights instruments.

41. He hoped that at its next session the Group would be able to put forward proposals for a balanced strategy for the application of the right to development in its multidimensional aspects.

42. Mr. HISHAMUDDIN (Malaysia), referring to the report on adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/1997/19), regretted that the Special Rapporteur had included allegations in that document without having verified them or analysed government replies. He emphasized in that regard that Governments should be given all the time they needed to reply and requested the Special Rapporteur to allow for that need in her next report.

43. Concerning the right to development, it was normal, since Asian populations were so religiously, culturally, economically and otherwise diverse, that throughout the continent, and in Malaysia in particular, human rights should be seen in the light of local aspirations.

44. In the view of Malaysia, promoting the right to development equally with civil and political rights was all the more important as the income of the most advantaged fifth of the world's population was 150 times greater than that of the most disadvantaged fifth and the difference was equally huge in all other domains, from life expectancy to education, not forgetting nutrition, health or, despite its vital importance for the right to development, research. While some Asian economies were strong, over 800 million people in Asia lived below the poverty line.

45. The right to development entailed a holistic approach to human rights. It was not a matter of choosing between economic, social and cultural rights on the one hand and civil and political rights on the other, or in other words

between bread and freedom. Instead, it was possible to have them both, as the experience of various developed countries, of his own country and of other emerging countries showed.

46. That made the lack of progress more than a decade after the adoption of the Declaration on the Right to Development all the more disappointing. His country, which welcomed the establishment within the Centre for Human Rights of the right-to-development unit, urged that that unit be given sufficient staff and funds not only for the widespread publicizing and promotion of the right to development, but also for the implementation of programmes for the right's realization.

47. While his delegation was pleased at the establishment of the Intergovernmental Group of Experts on the Right to Development, it had two recommendations to make concerning the Group's report. First, the Group should in the future encourage full participation in its work by the representatives of Governments and NGOs. Second, the Group should remain within its terms of reference and, instead of repeating work already done, seek to draw on it, particularly with regard to the removal of obstacles to the realization of the right to development and the creation of a genuinely fair economic order.

48. His delegation could not but express its concern at the idea of re-examining and redefining the Declaration on the Right to Development. That Declaration had been adopted by consensus and had lost nothing of its strength or its value.

49. It was, on the other hand, gratifying to see that the working group on structural adjustment programmes and economic, social and cultural rights was on the right track. He hoped that the group would hold additional meetings so that it could fulfil its important task and that it would continue to focus on the effects of the current international economic order and of structural adjustment programmes on human rights in the countries concerned. He further hoped that the group would continue to avoid polemic in its discussions and would take care that the outcome of its work was firmly anchored in reality.

50. He protested the tendency of some countries to make their assistance and economic relations conditional on priorities and standards concerning human rights and democracy set by themselves. Notwithstanding a degree of uniformity, human rights in fact varied widely from one country and one society to another. Malaysia, for example, emphasized the community rather than the individual and citizens' duties and obligations rather than individual rights. The conditions that might be imposed on the country would therefore be particularly inappropriate if the concept of human rights they implied did not respect the proper balance between the individual and the community, was oriented towards the short term rather than long-term welfare, corresponded to the narrow, selfish objectives of vested interests and powerful pressure groups, presupposed that only those with wealth and influence were entitled to change the course of affairs, and made no contribution towards the stability of society. The right to development could not be truly inalienable and fundamental if, under the guise of human rights and democracy, conditions were placed on international trade and economic cooperation. Malaysia's experience proved that diversity could be a strength,

subject to the adoption of a pluralistic approach making possible the strengthening of respect for human rights. Such an attitude required sincerity, humility and the genuine political will to implement the Declaration on the Right to Development.

51. Mr. PARREIRA (Angola) said, with reference to Mrs. Ksentini's progress report on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/1997/19), that he was deeply concerned at the rise in a traffic which, under the pretext of recycling or development projects, brought toxic wastes from OECD countries to developing countries. To combat that ill, the first requirement was to make the Basel Convention fully effective by enhancing the developing countries' capacity to detect such illicit practices and giving those States legal and technical assistance. Further requirements were to establish international surveillance machinery and study seriously the effects on health of the dumping of toxic wastes in developing countries. It was essential, too, that victims should have access to the administrative and judicial systems of waste-exporting States.

52. Within the United Nations, action should be taken on Commission on Human Rights resolution 1995/81, which requested the Secretary-General to establish in the Centre for Human Rights a focal unit with the specific task of following up on the findings of the Special Rapporteur and other issues related to the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights. The Centre should be given all the human and financial resources necessary to facilitate the Special Rapporteur's task. In that regard, it was intolerable that Mrs. Ksentini had been unable to undertake missions to the field or to draw up a list of countries and transnational corporations engaging in illicit dumping of toxic products and wastes; that was particularly so as the communications examined by the Special Rapporteur seemed to cover only a tiny fraction of the transboundary flows of such wastes.

53. Mr. TARMIDZI (Indonesia) said that the right to development was now recognized as one of the universal and inalienable human rights. The prime responsibility for its realization lay with States themselves, but domestic policy measures could only be effective in a favourable international environment. The past few years had demonstrated the damaging effects of the international economic climate on many developing countries; the Intergovernmental Group of Experts on the Right to Development so wisely set up by the Commission in 1996 should give particular attention to that aspect of the problem of implementing the right. The Group's mandate was to elaborate a strategy comprising concrete and practical measures for the implementation and promotion of the right to development. That was a daunting task in which the Group would undoubtedly succeed, especially if it held to the spirit of consensus. His delegation agreed with others that the proposals made in paragraphs 106, 107, 109 and 110 of the Group's report exceeded its mandate and that the Group should work more transparently, in public meetings, as was the practice of the Commission's intergovernmental organs.

54. He noted with considerable interest the Group's proposals for removing the obstacles to development, in which regard the fate of the quarter of the world's population that lived below the poverty line deserved more consistent

attention. Poverty-relief measures should take account of article 4, paragraph 2, of the Declaration on the Right to Development, which stressed the importance of effective international assistance. He therefore welcomed the strengthening, thanks in particular to the consultations on the right to development organized by the High Commissioner for Human Rights, of cooperation between United Nations bodies, specialized agencies and human rights defence groups.

55. He approved the steps taken by the High Commissioner to restructure the Centre for Human Rights, especially the creation of the Research and Right to Development Branch. He hoped that the research in question would cover mainly the right to development.

56. The Declaration on the Right to Development should be disseminated as widely as possible. To increase public awareness of the right to development, documentation concerning it should be made available over the World Wide Web/Internet.

57. Mr. WILLER (Observer for Norway) remarked that human rights instruments were far from having been implemented and that civil and political rights were still too often given priority over economic, social and cultural rights. All of those rights were, however, indivisible and interdependent; they must be taken as a whole. In a number of recent international instruments, such as the Convention on the Rights of the Child, civil and political rights and economic, social and cultural rights had been incorporated in a single text which could thus contribute towards the implementation of all the rights without distinction. A further example of interaction between civil and political rights and economic, social and cultural rights concerned the right to work and the rights of association, peaceful assembly, collective bargaining and the like relevant to an employment situation. Such rights constituted a nucleus not only of socio-economic rights, but also of fundamental human rights; their application could not be made conditional on a country's level of economic development or on political expediency. Democracy was gravely endangered by the current serious threats to trade-union rights in certain parts of the world.

58. Norway supported development assistance programmes and thereby the promotion of human rights, democratic institutions and the rule of law. Solving the world's economic development problems required active efforts from the international community. Nonetheless, the realization of economic, social and cultural rights did not depend on international circumstances alone, and countries themselves must take appropriate measures at the national level, in which respect the right to development conferred on governments a responsibility towards their own citizens. In addition, care must be taken to avoid the temptation of invoking a lack of development as a pretext for failure to observe human rights.

59. Far from leading to confrontation, discussion of the right to development should give the participants a global view of human rights.

60. Mr. MOHAMMAD SAFI (International Islamic Federation of Student Organizations) welcomed international conferences' growing interest in economic, social and cultural rights, but considered that the instruments

adopted by the United Nations did not adequately cover the question of the economic, social and cultural rights of peoples under foreign occupation. The human rights machinery was principally concerned with the civil and political rights of such peoples, to the neglect of the social and economic dimensions of the problem of foreign occupation.

61. Violation of the economic, social and cultural rights of the inhabitants of the Indian-occupied part of Kashmir had been going on for 50 years. Economic incentives and financial bonuses were offered in return for the submission of certain population groups, but inhabitants could not establish their own industrial infrastructure. Unilateral constraints kept them in a state of extreme poverty. Young people had no choice of occupation because the employment market was in the hands of the occupying Power.

62. Eight million people were being denied the right to development. Like all the world's peoples, the Kashmiris aspired to take their own destiny in hand, first by expressing their will in accordance with the Security Council resolutions and then by organizing the economic and social aspects of their lives.

63. The deployment of an Indian occupation force of 700,000 men was causing serious environmental damage. The Indian troops engendered a climate of fear and persecution by attacking educational and health establishments and small businesses. The question of the right of the Kashmiri people to self-determination must not be allowed to hide that of the respect of that people's economic, social and cultural rights.

64. Mrs. KSENTINI (Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights) said she wished to set out a few initial conclusions following the discussion of the report she had submitted under agenda item 5 (E/CN.4/1997/19). She had taken good note of all speakers' comments and suggestions.

65. With regard to the fact that some States had not had time to respond to allegations by the scheduled date, she would, as she had already said, ensure that replies received after her report had been written would be distributed. Its practical difficulties notwithstanding, the adversary procedure remained for her the cornerstone of the communications system.

66. Not all States seemed to have understood her method of presenting in paragraphs 37 to 73 of her report the information she had received. She therefore explained that, in each instance, the State or States mentioned first were those responsible for waste movements and the State or States mentioned second the victims. In conformity with the adversary procedure, she sent allegations both to the States presumed responsible and to the victims.

67. As for the suggestions that events that had occurred before the institution of her mandate should not be investigated, she pointed out that her brief specifically covered the effects of the illicit movement and dumping of toxic and dangerous products and wastes and that such effects were of a long-term nature.

68. Some countries with legislation that prohibited the practices at issue felt that the international machinery she represented did not apply to them. However, illicit transfer of toxic products was by definition a breach of the law and ostensibly legal transfers could involve hidden or fraudulent activities falling outside the law. Even humanitarian assistance operations had, it seemed, been utilized to make illicit transfers to countries in need of help.

69. Delegations differed as to whether her mandate could cover illicit movement of toxic products within national boundaries. Some saw her terms of reference as being very restrictive, while others felt that they were very wide-reaching and could even be held to cover, for example, the sale in developing countries of pharmaceuticals that were past their expiry dates. She herself saw nothing in the terms of reference which prevented the Special Rapporteur taking an interest in illicit dumping of toxic products within national boundaries.

70. As an African lawyer had said, objectivity did not mean neutrality. She would continue to place her objectivity at the service of human rights.

71. The CHAIRMAN announced that the Commission had completed the consideration of items 5 and 6 of its agenda.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 11) (E/CN.4/1997/65)

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (agenda item 17) (E/CN.4/1997/82 and 83; E/CN.4/Sub.2/1996/2 and 28; A/51/536)

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 19) (E/CN.4/1997/91 and Add.1; E/CN.4/1997/NGO/19; A/51/542/Add.1 and Add.2)

72. Mr. AMOR (Special Rapporteur on religious intolerance) introduced the eleventh general report on the implementation of the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (E/CN.4/1997/91). That report was to be read in conjunction with the report on his visit to India in December 1996 (E/CN.4/1997/91/Add.1) and two reports that had been submitted to the Third Committee of the General Assembly and concerned the visits he had made to Greece in June 1996 and Sudan in September 1996 (A/51/542/Add.1 and Add.2, respectively).

73. The general report provided an update on the examination of incidents and situations. In 1996, 53 communications, comprising 47 allegations and 6 urgent appeals, had been sent to a total of 49 States. In addition to the replies mentioned in the report, late replies had been received from Bangladesh, Belarus, China, Croatia, Cyprus, Ethiopia, Iran, Japan, Nepal, Singapore and the former Yugoslavia. Of the communications sent to States, the one urgent appeal sent to each of China, Egypt and the United Arab Emirates and the three such appeals sent to Iran warranted special mention. In addition to what was said in the general report, it should be noted that in

the case of Mr. Nasr Hamed Abu Zeid, who had been declared an apostate and consequently unable to remain married to his Muslim wife (paras. 12-15), legislative measures had been introduced and judicial proceedings opened. On 25 September 1996, the Cairo Court of Appeal had ordered the suspension sine die of enforcement of the decision that the marriage should be dissolved. The Egyptian authorities' ceaseless efforts to combat religious extremism should be welcomed, supported, pursued and strengthened. The urgent appeals sent to Iran had concerned the Yusefi and Talib cases. Concerning the priest Yusefi, who had been born a Muslim and had converted to Christianity and who had been found hanged in still unexplained circumstances, the Iranian authorities had replied that he had committed suicide because of family difficulties to which he had alluded in a letter that had been found on his body and authenticated by his widow and experts. Mr. Talibi was a Baha'i who had renounced his initial religion, Islam, and like Mr. Mahrami, Mr. Mithaqui and Mr. Khalajabadi, had been sentenced to death for apostasy by a revolutionary tribunal. Disturbing news had recently been received concerning Mr. Talibi and Mr. Mahrami, namely that their sentences had been confirmed by the Supreme Court and that they had been transferred.

74. There were a number of comments to make concerning the general report. First, there was unquestionably greater acceptance among States and the international community of freedom of religion and belief; religious freedom and tolerance were, however, still far from universal values. Manifestations of intolerance and infringements of freedom of religion and belief seemed to be the visible part of the iceberg. Religious extremism, whatever the religion concerned, must remain the object of attention, for it not only endangered human rights but was a vector of factors of domestic instability; systematic study of the phenomenon in all States would, however, require the strengthening of the Special Rapporteur's mandate. A clear distinction must be made between freedom of belief and freedom to manifest belief; while the former was absolute, the latter could, as the Human Rights Committee had observed, be subject to limits. At all events, unscrupulous or deceitful groups could not be allowed to hide under the cover of freedom of religion. The question of sects required thorough study; that study should be calm and free from generalizations and make proper allowance for the facts and circumstances specific to each case. The approach to intolerance and discrimination based on religion or belief remained essentially one of management; it was important not to overlook prevention, particularly the role of education in changing people's cultural outlook.

75. Concerning his in situ visits, he had been gratified by the cooperation he had received from most of the States concerned, including China, Pakistan, Iran, Greece, Sudan and India, on all of which he had reported. A report on his recent visit to Australia was in preparation and he would shortly be visiting Germany at the invitation of that country's authorities. Viet Nam, which he had asked to visit, had been considering the matter for some time; Turkey, which he had also asked to visit, had yet to reply. Procedure for following up on his visits to China, Pakistan and Iran had been fixed and applied in 1996, during which year he had also visited Greece, Sudan and India.

76. In Greece, freedom of worship was guaranteed by the Constitution, but was in practice subject to limitations owing, in particular, to the status of

Orthodoxy as the "dominant religion" and to the ban on proselytism. The Catholic and Protestant minorities and Jehovah's Witnesses were confronted to varying degrees with a general climate of intolerance. The Jewish minority, by contrast, seemed to escape discrimination but, like the other religious minorities, it decried the fact that peoples' religion was mentioned on their identity cards, a mention that continued to be made despite an appeal to the contrary by the European Parliament. The situation of the Muslim minority in western Thrace remained unchanged, and there had been tensions and serious blocks. Serious religious malaise was spreading and was increasingly being exploited for political reasons.

77. Regarding Sudan, it seemed that since the 1989 coup d'état religious discourse had become increasingly important and the religious aspect of the conflict in the South had become a source of antagonism. Actions taken by the authorities throughout the country seemed indicative of a policy of Islamization and Arabization. According to oft-confirmed reports, Christians and Animists, as well as Muslims who did not toe the official line, were subjected to restrictions on their religious freedom or to discrimination and even persecution. The adoption in April 1996 of a political charter based on citizenship, not religion, was, however, a positive development and was helping, inter alia, to bring about a solution in the south of the country.

78. In India, the democratic functioning of political institutions remained, despite some difficulties, a fundamental element making for tolerance and non-discrimination. There were, however, exceptions to the generally favourable situation and they should be remedied. Even disregarding the problem of Kashmir, it had to be admitted that India's economic and social structure was not always conducive to religious tolerance. The economic and cultural poverty of the most disadvantaged was a fertile breeding ground for religious extremism and, more generally, for the political exploitation of religion, as was evidenced by a number of conflicts and riots, including the destruction of the Babri Masjid at Ayodhya. In the latter case, the logical solution would be to restore the Babri Masjid to the state it had been in before the riots. The Indian authorities must remain very vigilant and recognize that the Ayodhya incident could not be treated as a mere land dispute. The sanctioning by time of a new de facto situation was likely to encourage Hindu extremism and to reinforce some Muslims' feelings of frustration and incomprehension and others' extremist leanings.

The meeting rose at 1.10 p.m.

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Fifty-third session

SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 March 1997, at 4.50 p.m.

Chairman: Mr. SOMOL (Czech Republic)

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The meeting was called to order at 4.50 p.m.

MEASURES TO IMPROVE THE SITUATION AND ENSURE THE HUMAN RIGHTS AND DIGNITY OF ALL MIGRANT WORKERS (agenda item 11)(E/CN.4/1997/65)

RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES (agenda item 17) (E/CN.4/1997/82 and 83; E/CN.4/Sub.2/1996/2 and 28; A/51/536)

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1. Mr. GOMEZ-ROBLEDO (Mexico) said that no country or region could avoid the phenomenon of international migration or remain immune to its consequences. Mass movements of population were occurring, not only in the wake of wars and disasters but also as a consequence of economic and technological developments summed up by the term "globalization". While the precise dimensions of the phenomenon were not known, the International Organization for Migration (IOM) estimated that refugees, asylum-seekers and illegal immigrants had numbered 120 million in 1994. That figure - 2 per cent of the world's population - constituted a minority of migrants, the majority of whom were legally recognized migrant workers. Migrants of all kinds formed a highly vulnerable sector of the population, not least because unscrupulous politicians feigned to hold them responsible for the real or perceived ills of the societies in which they lived.

2. His Government recognized the right of every State to define and implement its migration policies and make sovereign decisions on border-control issues, but the way in which a State treated aliens within its territory was not a matter for that State alone. The Universal Declaration of Human Rights and the relevant international instruments required States to guarantee to all individuals under their jurisdiction, the basic rights enjoyed by the population as a whole.

3. As a country of origin, destination and transit of major migratory flows, Mexico had always spoken out in favour of respect for the human rights of all migrants. It was in response to a Mexican initiative that the second regional conference on migration had been held at Panama City in early March 1997.

4. Since migrants represented the only vulnerable sector of the population which the Commission had not yet studied in detail, his delegation had decided to propose, by means of a draft resolution, the establishment of an institutional mechanism for the study of problems connected with the human rights of migrants, from the standpoints of both host countries and countries of origin. The proposed thematic mechanism would reaffirm the minimum applicable standards, elaborate policy guidelines to ensure their observance and recommend practical ways of promoting a better understanding between migrants and the societies in which they lived. The draft resolution would also appeal to all States that had not yet done so to sign, ratify or adhere to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

5. Mr. VO VAN Aï (International Federation of Human Rights Leagues), having referred to the written statement submitted by his organization concerning religious repression in Viet Nam (E/CN.4/1997/NGO/19), said that he also wished to draw attention to manifestations of religious intolerance in Pakistan. The Federation welcomed the concern expressed in the report by the Special Rapporteur on religious intolerance on his visit to that country (A/51/542). A number of incidents involving the Christian and Ahmadi communities, as well as clashes between Sunni and Shiite Muslims, had occurred in Pakistan in recent months. The harshness of Pakistan's blasphemy laws, as well as its electoral system which separated Muslim votes from non-Muslim ones, gave grounds for particular concern. He appealed to the Commission to take urgent steps to promote religious tolerance in both countries in question.

6. Mr. ROSSI (International Association for Religious Freedom), said that, in many countries, the right of an individual to change his or her religion and the right to manifest one's religion were being violated. Thus, under Shari'a law, a Muslim who changed religion could be sentenced to death. In countries where Islamist fanaticism was rife, such as Algeria, Egypt, Sudan, Iran and Pakistan, people were being encouraged to attack and even kill non-Muslims. Such practices were being entirely inconsistent with the teachings of the Koran, as well as with universally recognized human rights, and Islamic countries needed assistance to free themselves from their traditions of intolerance.

7. In some countries with a Christian majority, the freedom to manifest other religions was also severely limited. In Russia, the Orthodox Church was exerting pressure on the Duma to amend the existing law on religious freedom, which was among the most liberal in Europe, and had already persuaded certain regional and provincial authorities to adopt administrative measures to reduce the freedom of non-Orthodox religious communities. The Orthodox churches of Bulgaria, Romania and Greece adopted a similar position.

8. Lastly, in countries ruled by atheistic communist ideology, such as China, Viet Nam and North Korea, religious believers continued to suffer severe forms of intolerance and discrimination.

9. The Commission should encourage the Governments of the countries concerned to resist pressures from intolerant religious or ideological circles and honour their international commitments to ensure respect for all human rights, including the right to freedom of thought, conscience and religion.

10. Ms. CHANG (Human Rights Advocates, Inc.) said that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families had been adopted by the General Assembly in 1990, yet so far only two States had signed it and only eight had ratified or acceded to it and they did not include any of the major labour-importing States. While a number of migrant workers' rights were protected by the provisions of existing instruments, such as the International Covenants on Human Rights the three International Labour Organization (ILO) conventions, not all of them were covered, and that was a matter of concern in view of the many abuses of migrant workers and immigrants, including some committed by government officials of the receiving States. For example, hundreds of complaints, had

been made regarding abuses by the United States Border Patrol, yet investigations were invariably perfunctory and few of them had resulted in criminal charges.

11. Prompt action was needed. Her organization welcomed the proposal to establish a working group that could gather information from other United Nations human rights bodies on whether treaties under their purview were being used to protect the rights of migrant workers; ask ILO how it guaranteed such rights in countries that had ratified the ILO Conventions and in those that had not; and analyse information regarding rights not currently being protected. If no working group was established, the High Commissioner for Human Rights could be asked to compile the required information from the relevant treaty bodies and ILO.

12. Most Reverend PAVLOS (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities) said that, soon after the invasion of Cyprus in 1974, the Turkish forces had begun systematically to plunder religious objects and destroy Christian symbols in the occupied area of the island. Thousands of works of art had vanished and had rarely been traced in the world art markets. Cultural monuments and graves had been damaged or destroyed, iconostases had been desecrated and walls covered with graffiti. Some churches had been looted and left empty, others had been converted to mosques or secular uses or had been demolished. In contrast, the Government of the Republic of Cyprus, and the Greek Orthodox population, had respected every mosque and Muslim shrine in their part of the island.

13. According to the Turkish Cypriot press, the Cathedral of the Archangel Michael in his own diocese of Kyrenia had been turned into a museum. In 1994 the tower and belfry had been on the verge of collapse and 13 icons had been stolen. Another church in his diocese had been converted into a gallery and openly advertised for sale. The Antiphonitis Monestery had been looted and left deserted. Some fifteenth-century frescoes had been stolen and others had been destroyed in attempts to remove them from the walls. The Ahiropiitos Monastery had also been stripped of its Byzantine treasures and turned into a military camp and arms store. The famous Kanakaria mosaics, the most significant works of early Christian art in the Eastern Orthodox Church, had been stolen and sold on the international art market. The Apostle Andreas Monastery on the Karpas Peninsula had been left to fall into ruins. Those were a few cases from his diocese alone.

14. He earnestly requested the Commission to help restore its rightful property to the people of Cyprus, to protest at the prolonged violation of its human rights and to save its religious and cultural heritage from the Turkish occupation forces.

15. Mr. PHILLIPS (Minority Rights Group) said that, following the Commission's criticism of the Sub-Commission in 1994 for allocating insufficient time and attention to minority issues, the problem had been addressed by the establishment of the inter-sessional Working Group. That development and the more substantial debates within the Commission and the Sub-Commission were welcome, but they constituted only a start. The members

of the Working Group were distinguished and committed experts on minorities; the Group had a clear mandate and there was no other forum dealing with the issue within the United Nations system.

16. The second meeting of the Working Group had been attended by representatives of 50 Governments, 7 United Nations bodies and 52 NGOs, and well-structured and high-quality debates on education, on domicile and residence and on definitions had been achieved. That meeting was in sharp contrast to the first meeting, which had been under-prepared and had engaged mainly in procedural discussions. It had become clear to all that the issue was a complex one not susceptible to quick "solutions" and that the Working Group needed to explore it through constant, thoughtful planning, for which it would need external help, more resources and a continuity of purpose.

17. His organization supported the Working Group's recommendations and urged the Commission to endorse the decisions of the Sub-Commission, particularly that regarding the need for the Working Group to develop its role as a forum for dialogue between minorities, NGOs, Governments and intergovernmental bodies. He thus hoped that the Commission would give the Working Group a permanent mandate to ensure that there was an ongoing forum for constructive debate.

The meeting rose at 5.35 p.m.